IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1682 OF 2007

Steelco Gujarat Limited ..Petitioner
Vs.
Shri Madhukant Kanakia
and anr. ..Respondents

Ms. Sheela Tambe i/by Mr. Manoj Bhatt for petitioner.
Mr. A.S. Shitole, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : September 06, 2007.

P.C.:

1. Heard Ms. Tambe h/f Mr. Bhatt the learned counsel for the petitioner-company. The said company has filed C.C. No.1456/SS of 2005 against the present respondent no.1 before the Special Metropolitan Magistrate's Court i.e. the Small Causes Court at Mumbai and the complainant filed an application for leave to issue proclamation notice in a newspaper at Mumbai under Section 82 of Cr.P.C. at its costs so as to serve notice to the accused. This application was allowed by the learned Magistrate vide his order dated 29/11/2006.

2. However, by the order dated 29/11/2006 the

learned Magistrate was pleased to grant leave to publish the proclamation notice in "The Times of India" Mumbai Edition. It is the case of the petitioner-company that when it approached the concerned agency for the Times of India, the cost of publication was estimated at Rs.1,00,000/-, whereas other newspapers like Janmabhoomi and Free Press Journal would cost the publication within the range of Rs.10,000/- to Rs.15,000/-. Therefore, the petitioner-company submitted an application before the learned Magistrate for variation of the order passed on 29/11/2006 so as to publish the proclamation notice in the local newspapers Janmabhoomi and Free Press Journal instead of the Times of India. The repeated requests have been turned down and the learned Magistrate passed orders directing to comply with the order dated 29/11/2006. Hence, this petition.

3. When leave was granted to the petitioner-company under Section 82 of Cr.P.C. for publication of proclamation notice in the Times of India and the petitioner-company found that it was a very costly publication and, therefore, it approached

the learned Magistrate for variation of the order. Whether the proclamation is published in one newspaper or the other, compliance of Section 82 of Cr.P.C. is done and, therefore, there is no necessity to insist the proclamation notice to be published in the Times of India. If the complainant found that the compliance of Section 82 could be done by publishing the proclamation notice in some other newspaper published from Mumbai and more particularly read by a particular section of the society, the prayer so made could not have been turned down.

4. The petitioner is, therefore, allowed to publish the proclamation notice against the present respondent no.1-accused in the newspapers published from Mumbai, namely, Janmabhoomi and Free Press Journal. This shall be done within two weeks and a report of publication with copies of the newspapers concerned shall be placed before the learned Magistrate within three weeks from today.

5. The petition is disposed off in terms of the above directions.

(B.H. Marlapalle,J.)